

### § 365.303

EFFECTIVE DATE NOTE: At 78 FR 52647, Aug. 23, 2013, § 365.301 was removed, effective Aug. 23, 2015.

#### § 365.303 Contacting another party.

When a person wishes to contact a party or serve a pleading or letter on that party, it shall do so through its representative. The phone and FAX numbers and address of applicant's representative shall be listed in the *FMCSA Register*.

#### § 365.305 Serving copies of pleadings.

(a) An applicant must serve all pleadings and letters on the FMCSA and all known participants in the proceeding, except that a reply to a motion need only be served on the moving party.

(b) A protestant need serve only the FMCSA and applicant with pleadings or letters.

#### § 365.307 Replies to motions.

Replies to motions filed under this part are due within 5 days of the date the motion is filed at the FMCSA.

#### § 365.309 FAX filings.

FAX filings of applications and supporting evidence are not permitted. To assist parties in meeting the expedited time frames established for protesting an application, however, the FMCSA will accept FAX filings of protests and any reply or rebuttal evidence. FAX filings of these pleadings must be followed by the original document, plus one copy for FMCSA recordkeeping purposes.

### Subpart D—Transfer of Operating Rights Under 49 U.S.C. 10926

EFFECTIVE DATE NOTE: At 78 FR 52647, Aug. 23, 2013, subpart D, effective Aug. 23, 2015. For the convenience of the user, the text of the new subpart follows this subpart.

SOURCE: 53 FR 4852, Feb. 18, 1988, unless otherwise noted. Redesignated at 61 FR 54707, Oct. 21, 1996.

#### § 365.401 Scope of rules.

These rules define the procedures that enable motor passenger and property carriers, property brokers, and household goods freight forwarders to obtain approval from the FMCSA to merge, transfer, or lease their oper-

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ating rights in financial transactions not subject to 49 U.S.C. 11343. Transactions covered by these rules are governed by 49 U.S.C. 10321 and 10926. The filing fee is set forth at 49 CFR 360.3(f)(8).

[53 FR 4852, Feb. 18, 1988, as amended at 67 FR 61820, Oct. 2, 2002]

#### § 365.403 Definitions.

For the purposes of this part, the following definitions apply:

(a) *Transfer*. Transfers include all transactions (*i.e.*, the sale or lease of interstate operating rights,<sup>1</sup> or the merger of two or more carriers or a carrier into a noncarrier) subject to 49 U.S.C. 10926, as well as the sale of property brokers' licenses under 49 U.S.C. 10321.

(b) *Operating rights*. Operating rights include:

(1) Certificates and permits issued to motor carriers;

(2) Permits issued to freight forwarders;

(3) Licenses issued to property brokers; and

(4) Certificates of Registration issued to motor carriers. The term also includes authority held by virtue of the gateway elimination regulations published in the FEDERAL REGISTER as letter-notices.

(c) *Certificate of registration*. The evidence of a motor carrier's right to engage in interstate or foreign commerce within a single State is established by a corresponding State certificate.

(d) *Person*. An individual, partnership, corporation, company, association, or other form of business, or a trustee, receiver, assignee, or personal representative of any of these.

(e) *Record holder*. The person shown on the records of the FMCSA as the legal owner of the operating rights.

(f) *Control*. A relationship between persons that includes actual control, legal control, and the power to exercise

<sup>1</sup>The execution of a chattel mortgage, deed of trust, or other similar document does not constitute a transfer or require the FMCSA's approval. However, a foreclosure for the purpose of transferring an operating right to satisfy a judgment or claim against the record holder may not be effected without approval of the FMCSA.